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In Re: Caldwell

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-2682

IN RE: LAMAR CALDWELL,

Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern District of Pennsylvania
(Related to Civil Action No. 97-cv-05106)

Submitted Under Rule 21, Fed. R. App. P.
June 27, 2007

Before: BARRY, AMBRO and FISHER, Circuit Judges

(Filed: July 19, 2007)

OPINION

PER CURIAM

Pro se petitioner Lamar Caldwell (a/k/a Mark Benton) filed a petition for writ of mandamus in this Court on June 8, 2007. Although not entirely clear, it appears that Caldwell would like this Court to order District Judge Stewart Dalzell and Magistrate Judge M. Faith Angell of the Eastern District of Pennsylvania, who presided over his 28 U.S.C. § 2254 petition for writ of habeas corpus, to assume jurisdiction over Case

No. 05-04972, which Caldwell filed in the District of New Jersey, and which is closed.

As we have no legal authority to issue such an order, Caldwell has no right, much less a “clear and indisputable” right, to issuance of the writ. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996). Accordingly, we will deny the petition.

Additionally, upon review of the Eastern District of Pennsylvania’s docket for Case No. 98-05102, it appears that Caldwell did not receive a copy of the District Court’s August 21, 2006 order denying his request to reopen the case. Thus, to the extent that Caldwell seeks to compel the District Court to rule on the request to reopen, we will deny the petition for writ of mandamus as moot because the District Court did, in fact, rule on the request.

Finally, to the extent that Caldwell seeks to appeal from a decision in District of New Jersey Case No. 05-4972, we note that he has already appealed from the District Court’s orders in that case, and that we dismissed his appeal on April 19, 2007, under 28 U.S.C. § 1915(e)(2).